IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant: Janik, *et al.*

Title: SYSTEM AND METHOD FOR ACTIVATION OF PORTABLE AND MOBILE MEDIA PLAYER DEVICES FOR WIRELESS LAN SERVICES

Appl. No.: 10/802,518

Filing Date: 03/16/2004

Examiner: Raymond S. Dean

Art Unit: 2618

Conf. No.: 3980

BRIEF ON APPEAL

Mail Stop Appeal Brief - Patents
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Dear Sir/Madam:

This Appeal Brief is being filed in response to a Notice of Panel Decision from Pre-Appeal Brief Review mailed May 24, 2012, in which the rejection of Claims 1, 2, 4, 6-10, and 31-48 was maintained. The Notice of Panel Decision was prepared in response to a Notice of Appeal and Pre-Appeal Brief Request for Review filed on April 25, 2012. As such, the deadline for submission of this Appeal Brief under the provisions of the Pre-Appeal Brief Conference Pilot Program is June 25, 2012. As a result, this Appeal Brief is timely filed. This Appeal Brief is being filed together with a credit card payment covering the 37 C.F.R. § 41.20(b)(2) appeal brief fee. If this fee is deemed to be insufficient, authorization is hereby given to charge any deficiency (or credit any balance) to the undersigned deposit account 19-0741. Appellant hereby respectfully requests reversal of the various rejections of the pending claims.

REAL PARTY IN INTEREST

The real party in interest is Viviana Research LLC, the assignee of record, having a place of business at 160 Greentree Drive, Dover, Delaware 19904. The assignment to Kang Viviana Research LLC was recorded in the records of the United States Patent and Trademark Office at Reel/Frame 022527/0986 on April 9, 2009.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences that will directly affect, be directly affected by, or have a bearing on the present appeal, which are known to Appellant or Appellant's patent representative.

STATUS OF CLAIMS

Claims 1, 2, 4, 6-10, and 31-48, which are listed in the Claims Appendix attached hereto, are currently pending in the application. Claims 3, 5, and 11-30 were previously canceled. Claims 1, 2, 4, 6-10, and 31-48 stand rejected and are the subject of this appeal.

STATUS OF AMENDMENTS

A Final Office Action was issued on March 12, 2012. No amendments have been made since the issuance of this Final Office Action.

SUMMARY OF CLAIMED SUBJECT MATTER

Four independent claims, Claims 1, 32, 37, and 43 are under appeal and separately argued below as a group along with their associated dependent claims. Three independent claims, Claims 32, 37, and 43 are under appeal and separately argued below as a group along with their associated dependent claims. One dependent claim, Claim 31, is under appeal and separately argued below as a group. Each of these claims is summarized below, with citations to corresponding portions of the specification and drawings as required by 37 C.F.R. § 41.37(c)(1)(v). These citations are provided to illustrate specific examples and embodiments of the recited claims language, and are not intended to limit the claims.

Independent Claim 1 is directed to a system that includes a server computer having a wireless transmitter (e.g., the embodiment corresponding to reference numerals 30 and 14, Figs. 2 and 3, paragraph [0033]). The server computer is programmed to receive, from a user interface, a predetermined future time selected by a user at which an automatic process of content synchronization is to be initiated (e.g., the embodiment corresponding to Fig. 7, paragraphs [0023] and [0053]). The server computer is further programmed to cause the wireless transmitter to transmit a signal to initiate the automatic process of content synchronization with a portable device at the predetermined future time, wherein the signal is caused to be transmitted by the server computer without regard to the portable device being within a range to receive the signal (e.g., the embodiment corresponding to paragraphs [0053] and [0057]). The portable device includes a wireless receiver subsystem comprising a wireless receiver and a first antenna associated with the wireless receiver (e.g., the embodiment corresponding to reference numerals 10, 10a, 56, and 60; Figs. 2-4; paragraph [0034]). The portable device further includes a wireless transceiver subsystem in communication with the

wireless receiver subsystem, the wireless transceiver subsystem comprising a wireless transceiver and a second antenna associated with the wireless transceiver (e.g., the embodiment corresponding to reference numerals 58 and 88; Fig. 4; paragraph [0034]). The wireless receiver subsystem is configured to continuously and automatically cycle between a first power mode and a second power mode at least until the signal is received by the wireless receiver (e.g., the embodiment corresponding to paragraphs [0054] and [0057]). The wireless receiver subsystem is further configured to respond to the signal when received by the wireless receiver to cause the wireless transceiver subsystem to transition from a standby state to an active state in which the wireless transceiver subsystem uses the wireless transceiver to actively perform content synchronization with the server computer and wherein the wireless transceiver subsystem consumes less power in the standby state than in the active state (e.g., the embodiment corresponding to paragraphs [0052]-[0057]).

Claim 31 depends from independent Claim 1. In the system of Claim 31, the portable device includes a synchronization budget manager which limits time during which the wireless transceiver subsystem of the portable device is in the active state as a function of an amount of power which is allowed to be expended on content synchronization (e.g., the embodiment corresponding to reference numeral 140; Figure 4; paragraph [0048]).

Independent Claim 32 is directed to an apparatus that includes a wireless receiver subsystem comprising a wireless receiver and a first antenna associated with the wireless receiver (e.g., the embodiment corresponding to reference numerals 10, 10a, 56, and 60; Figs. 2-4; paragraph [0034]). The apparatus further includes a wireless transceiver subsystem in communication with the wireless receiver subsystem, the wireless subsystem comprising a wireless transceiver and a second antenna associated with the wireless transceiver (e.g., the embodiment corresponding to reference numerals 58 and 88; Fig. 4; paragraph [0034]). The

wireless receiver subsystem is configured to continuously and automatically cycle between a first power mode and a second power mode at least until a signal is received by the wireless receiver (e.g., the embodiment corresponding to paragraphs [0054] and [0057]). The wireless receiver subsystem is further configured to respond to the signal received by the wireless receiver to cause the wireless transceiver subsystem to transition from a standby state to an active state during which the wireless transceiver subsystem uses the wireless transceiver to perform content synchronization with a server computer, and wherein the wireless transceiver subsystem consumes less power in the standby state than in the active state, wherein the synchronization of the content is performed at a predetermined time specified by a user in response to a command from the server computer (e.g., the embodiment corresponding to paragraphs [0052]-[0057]).

Independent Claim 37 is directed to a method that includes continuously and automatically cycling a wireless receiver subsystem of a portable device between a first power mode and a second power mode at least until a wireless signal is received by a wireless receiver of the wireless receiver subsystem (e.g., the embodiment corresponding to paragraphs [0054] and [0057]). The method further includes receiving the wireless signal at a first antenna of the wireless receiver subsystem of the portable device and using receipt of the wireless signal by the wireless receiver subsystem of the portable device to cause the wireless receiver subsystem of the portable device to transition a wireless transceiver subsystem of the portable device from a standby state to an active state wherein the wireless transceiver subsystem of the portable device consumes more power in the active state than in the standby state (e.g., the embodiment corresponding to paragraphs [0056]-[0057]). The method also includes causing the wireless transceiver subsystem of the portable device to use a wireless transceiver to synchronize content stored in the portable device with content in a server computer via a

second antenna associated with the wireless transceiver in response to the wireless transceiver subsystem of the portable device being transitioned by the wireless receiver subsystem of the portable device to the active state, wherein the synchronization of the content is performed at a predetermined time specified by a user in response to a command from the server computer (e.g., the embodiment corresponding to paragraphs [0052]-[0057]).

Independent Claim 43 is directed to an apparatus that includes means for continuously and automatically cycling a wireless receiver subsystem of a portable device between a first power mode and a second power mode at least until a wireless signal is received by a wireless receiver of the wireless receiver subsystem (e.g., the embodiment corresponding to paragraphs [0054] and [0057]). The apparatus also includes means for receiving the wireless signal at a first antenna of the wireless receiver subsystem of the portable device and means for transitioning a wireless transceiver subsystem of the portable device from a standby state to an active state wherein the wireless transceiver subsystem of the portable device consumes more power in the active state than in the standby state (e.g., the embodiment corresponding to paragraphs [0056]-[0057]). The apparatus further includes means for synchronizing content stored in the portable device with content in a server computer via a second antenna associated with the wireless transceiver subsystem in response to the wireless transceiver subsystem of the portable device being transitioned by the wireless receiver subsystem of the portable device to the active state, wherein the synchronization of the content is performed at a predetermined time specified by a user in response to a command from the server computer (e.g., the embodiment corresponding to paragraphs [0052]-[0057]).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Three grounds of rejection are presented for review in this appeal:

(1) Whether independent Claims 1, 32, 37, and 43 and their associated dependent claims are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent Application Publication No. 2002/0065564 to Sheriff *et al.* in view of U.S. Patent No. 7,245,649 to Haartsen and U.S. Patent Application Publication No. 2004/0152450 to Kouznetsov *et al.*

(2) Whether independent Claims 32, 37, and 43 and their associated dependent claims are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent Application Publication No. 2002/0065564 to Sheriff *et al.* in view of U.S. Patent No. 7,245,649 to Haartsen, U.S. Patent Application Publication No. 2004/0152450 to Kouznetsov *et al.*, and U.S. Patent No. 6,940,833 to Jonas *et al.*

(3) Whether Claim 31 is unpatentable under 35 U.S.C. § 103(a) over U.S. Patent Application Publication No. 2002/0065564 to Sheriff *et al.* in view of U.S. Patent No. 7,245,649 to Haartsen, U.S. Patent Application Publication No. 2004/0152450 to Kouznetsov *et al.*, and U.S. Patent Application Publication No. 2004/0029621 to Karaoguz *et al.* (hereinafter "Karaoguz").

ARGUMENT

I. LEGAL STANDARDS UNDER 35 U.S.C. § 103(a)

35 U.S.C. 103(a) states:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Obviousness under 35 U.S.C. 103(a) involves four factual inquiries: (1) the scope and content of the prior art; (2) the differences between the claims and the prior art; (3) the level of ordinary skill in the pertinent art; and (4) secondary considerations, if any, of nonobviousness. *See Graham v. John Deere Co.*, 383 U.S. 1 (1966).

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a *prima facie* case of obviousness based upon the prior art. *In re Piasecki*, 745 F.2d 1468, 1471-72 (Fed. Cir. 1984).

According to M.P.E.P. § 706.02(j),

> 35 U.S.C. 103 authorizes a rejection where, to meet the claim, it is necessary to modify a single reference or to combine it with one or more other references. After indicating that the rejection is under 35 U.S.C. 103, the examiner should set forth in the Office action:
>
> (A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,
>
> (B) the difference or differences in the claim over the applied reference(s),
>
> (C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and

> (D) an explanation >as to< why >the claimed invention would have been obvious to< one of ordinary skill in the art at the time the invention was made**.
>
> ** "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

II. CLAIM REJECTIONS UNDER 35 U.S.C. § 103(A)

A. Independent Claims 1, 32, 37, and 43 and their associated dependent claims are not obvious in view of Sheriff, Haartsen, and Kouznetsov because Sheriff, Haartsen, and Kouznetsov fail to disclose, teach, or suggest "initiat[ing] the automatic process of content synchronization with the portable device at the predetermined future time [selected by a user and received from a user interface]," as claimed.

On page 3 of the Final Office Action, Claims 1-2, 4, 6-10, 32-39, 41, 43, and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0065564 to Sheriff et al. (hereinafter "Sheriff") in view of U.S. Patent No. 7,245,649 to Haartsen (hereinafter "Haartsen") and U.S. Patent Application Publication No. 2004/0152450 to Kouznetsov et al. (hereinafter "Kouznetsov"). Appellant respectfully requests that the Board reverse this rejection.

Independent Claim 1 recites, in part, that "the server computer is programmed to: receive, from a user interface, a predetermined future time selected by a user at which an automatic process of content synchronization is to be initiated" and "cause the wireless transmitter to transmit a signal to initiate the automatic process of content synchronization with the portable device at the predetermined future time" (emphasis added). Independent Claim 32

recites, in part, that "the wireless receiver subsystem is configured to … respond to the signal received by the wireless receiver … to perform content synchronization with a server computer … , wherein the synchronization of the content is performed at a predetermined time specified by a user in response to a command from the server computer" (emphasis added). Although different in scope, independent Claims 37 and 43 recite similar elements. Appellant respectfully submits that Sheriff, Haartsen, and Kouznetsov, alone or in combination, fail to disclose, teach, or suggest such elements.

On page 7 of the Final Office Action, the Examiner acknowledged that "Sheriff in view of Haartsen" does not teach "receiving, from a user interface, a predetermined future time selected by a user at which an automatic process of content synchronization is to be initiated." Instead, the Examiner appeared to rely on Kouznetsov for its alleged disclosure of such elements. Appellant respectfully disagrees with the Examiner's characterization of Kouznetsov.

Kouznetsov is directed to a "messaging system [that] provides dynamic polling of a message server" (Abstract). Kouznetsov discloses a "messaging system" that includes "computers 20 and 28" controlled by "users 16 and 18" and a "central server 12" that manages messaging between "computers 20 and 28" (see paragraphs [0010] and [0011]; Figure). Paragraph [0012] of Kouznetsov discloses that "computers 20 and 28" include "messaging software application 50." Paragraph [0013] of Kouznetsov states (with emphasis added):

> The messaging system 11 of the present invention … operates using a message polling technique, where the users' messaging software application, such as software 50 or 52, polls or "calls" the server 12 to determine if message intended for that user are waiting to be delivered.

Paragraphs [0017] and [0018] of Kouznetsov state (with emphasis added):

> Individual users can also create a schedule of when to poll for new messages. This allows server 12 to be polled only during the times and days of the week selected by the user, which permits a user to configure message software applications to run on different computers (e.g. home and office) without conflicts, as each computer will only get messages sent within scheduled polling intervals assigned to that particular computer.
>
> Although server 12 operates in a stateless manner, it is of course possible to implement a peer to peer messaging system that maintains open communication sockets between users. Based on user activity, messaging system 11 could implement whichever connection was best suited to the current activity of the users, with such decision being made by either server 12 or the application, e.g., software 50 or 52, residing on the users' computer.

As such, Kouznetsov discloses that the users' "computers 20 and 28" poll "central server 12." Kouznetsov further discloses that a "schedule of when to poll" may also be created by the users. This schedule appears to be created and maintained at the client/users' "computers 20 and 28" (which perform the polling). Kouznetsov fails to provide any indication that "**central server 12**" "receives, from a user interface, **a predetermined future time** selected by a user at which an automatic process of content synchronization is to be initiated" and "causes the wireless transmitter to transmit a signal to initiate the automatic process of content synchronization with the portable device at the predetermined future time," as recited in Claim 1, or that "the synchronization of the content is performed at a predetermined time specified by a user in response to a command from the server computer," as recited in Claims 32, 37, and 43 (emphasis added). A client computer that polls a server computer at scheduled times is not the same as a "server computer" that "receives, from a user interface, a predetermined future time selected by a user at which an automatic process of content synchronization is to be initiated" and "causes the wireless transmitter to transmit a signal to initiate the automatic process of content synchronization with the portable device at the predetermined future time," as claimed.

On page 3 of the Final Office Action, the Examiner further stated that:

> Modifying the polling process of Sheriff with the polling technique of Kouznetsov renders a scenario wherein the time of the polling process of Sheriff is selected by a user. Since the automatic synchronization is tied to said polling time, the automatic synchronization time is effectively selected by the user. This modification renders a server with the above feature.

However, in making the above argument the Examiner appears to ignore and/or mischaracterize the plain language of the claims. The claims do not recite an "automatic synchronization time [that] is effectively selected by the user." To the contrary, Claim 1 recites, in part, that "the server computer is programmed to: receive, from a user interface, a predetermined future time selected by a user at which an automatic process of content synchronization is to be initiated" and "cause the wireless transmitter to transmit a signal to initiate the automatic process of content synchronization with the portable device at the predetermined future time" (emphasis added). Nowhere does Sheriff or Kouznetsov disclose, teach, or suggest a "server computer" that "receive[s], from a user interface, a predetermined future time selected by a user at which an automatic process of content synchronization is initiated." To obtain such an element would require further modification of Sheriff and/or Kouznetsov that is not taught or suggested by Sheriff or Kouznetsov. Namely, one of these references would need to be modified such that a "server computer" receives "predetermined future time[s] selected by a user" at which the various recited actions are performed. However, neither Sheriff, Haartsen, nor Kouznetsov disclose, teach, or suggest such a thing.

Instead, as discussed above, Kouznetsov discloses that remote client computers 20 and 28 poll the server at predetermined times. Kouznetsov does not provide any indication that a "predetermined future time selected by a user at which an automatic process of content synchronization is initiated" is communicated to or received by the "central server 12" of

Kouznetsov. Merely because Kouznetsov teaches that a user may "create a schedule" of when a client computer is to poll a server does not mean that it would have been obvious for a "server computer" to "receive, from a user interface, a predetermined future time selected by a user at which an automatic process of content synchronization is to be initiated" and "cause the wireless transmitter to transmit a signal to initiate the automatic process of content synchronization with the portable device at the predetermined future time," as claimed.

For at least the foregoing reasons, Appellant respectfully submits that the combination of Sheriff, Haartsen, and Kouznetsov fails to disclose, teach, or suggest at least one element recited in each of independent Claims 1, 32, 37, and 43 (and their associated dependent claims). Accordingly, Appellant respectfully requests reversal of the rejection of Claims 1, 2, 4, 6-10, 32-39, 41, 43, and 45 under 35 U.S.C. § 103(a).

B. Independent Claims 32, 37, and 43 and their associated dependent claims are not obvious in view of Sheriff, Haartsen, Kouznetsov, and Jonas because Sheriff, Haartsen, Kouznetsov, and Jonas fail to disicose, teach, or suggest "the synchronization of the content is performed at a predetermined time specified by a user in response to a command from the server computer," as claimed.

On page 10 of the Final Office Action, Claims 32-39, 41, 43, and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sheriff in view of Haartsen, Kouznetsov, and U.S. Patent No. 6,940,833 to Jonas *et al.* (hereinafter "Jonas"). Appellant respectfully requests that the Board reverse this rejection.

As discussed above, independent Claim 32 recites, in part, that "the wireless receiver subsystem is configured to ... respond to the signal received by the wireless receiver ... to perform content synchronization with a server computer ... wherein the synchronization of the content is performed at a predetermined time specified by a user in response to a command

from the server computer" (emphasis added). Although different in scope, independent Claims 37 and 43 recite similar elements. Appellant respectfully submits that Sheriff, Haartsen, Kouznetsov, and Jonas, alone or in combination, fail to disclose, teach, or suggest such elements.

On page 13 of the Final Office Action, the Examiner acknowledged that Sheriff and Haartsen do not teach "receiving, from a user interface, a predetermined future time selected by a user at which an automatic process of content synchronization is to be initiated." Instead, the Examiner relied on Kouznetsov for its alleged disclosure of such an element, specifically citing "sections 0017 lines 1-4, 0018 lines 1-4" of Kouznetsov. As discussed above, Appellant respectfully disagrees with the Examiner's characterization of Kouznetsov.

Kouznetsov discloses that the users' "computers 20 and 28" poll "central server 12" (see paragraphs [0013], [0017], and [0018]). Kouznetsov further discloses that a "schedule of when to poll" may also be created by the users (see paragraphs [0013], [0017], and [0018]). This schedule appears to be created and maintained at the client/users' "computers 20 and 28" (which perform the polling). Kouznetsov fails to provide any indication that "the synchronization of the content is performed at a predetermined time specified by a user in response to a command from the server computer," as recited in Claims 32, 37, and 43 (emphasis added). Polling of a server computer by a client computer at scheduled times is not the same as performing "the synchronization of content ... at a predetermined time specified by a user in response to a command from the server computer," as claimed.

On page 14 of the Final Office Action, the Examiner relied on column 8, lines 20-22 and 53 of Jonas apparently for its alleged disclosure of "the substituted step of acquisition of the time of day from a server computer." Jonas is directed to a "two dimensional scheduler [that]

integrates the allocation of both the time domain and the channel domain for upstream communication in a broadband wireless access system." Column 8, lines 20-22 and 53 of Jonas states:

> A preferred embodiment of the wireless modem initialization procedure utilizing the functions of the present invention comprises (referring to FIG. 3): ... 3.2 Acquiring Time Of Day from the time server.

As such, Jonas appears to merely state that the time of day may be acquired from a "time server."

On page 3 of the Final Office Action, the Examiner stated that "Jonas was cited for its teaching of the command of the time of day being received from the server." However, Appellant respectfully submits that Jonas does not disclose, teach, or suggest any elements that are relevant to the present rejection. As discussed above, Jonas merely discloses that a "time of day" may be acquired from a "time server." However, acquiring the time of day from a specialized server is very different from "receiving, from a user interface, a predetermined future time selected by a user at which an automatic process of content synchronization is to be initiated." The "time of day" of Jonas is not a "predetermined future time," but rather is the current time. The "time of day" of Jonas is not "selected by a user," and the "time of day" of Jonas is not indicative of a time "at which an automatic process of content synchronization is to be initiated."

As discussed above, Kouznetsov discloses that users' "computers 20 and 28" poll a "central server 12." The schedule of when to poll appears to be created and maintained at the client/users' "computers 20 and 28" of Kouznetsov. Jonas merely discloses that a "time of day" may be acquired from a "time server." The combination of these disclosures would not render

obvious the element "receiving, from a user interface, a predetermined future time selected by a user at which an automatic process of content synchronization is to be initiated" (as apparently asserted by the Examiner on pages 10-15 of the Final Office Action). Neither Kouznetsov, Jonas, nor their combination disclose, teach, or suggest a "predetermined future time selected by a user at which an automatic process of content synchronization is to be initiated" which is received "from a user interface." Likewise, the applied references fail to disclose, teach, or suggest that "the synchronization of the content is performed at a predetermined time specified by a user in response to a command from the server computer," as recited in Claims 32, 37, and 43 (emphasis added).

For at least the reasons above, Appellant respectfully requests reversal of the rejection of Claims 32-39, 41, 43, and 45 under 35 U.S.C. § 103(a).

C. Claim 31 is not obvious in view of Sheriff, Haartsen, Kouznetsov, and Karaoguz because Sheriff, Haartsen, Kouznetsov, and Karaoguz fail to disclose, teach, or suggest a "synchronization budget manager which limits time ... in the active state as a function of an amount of power which is allowed to be expended on content synchronization," as claimed.

On page 18 of the Final Office Action, Claim 31 was rejected over Sheriff, Haartsen, and Kouznetsov in view of U.S. Patent Application Publication No. 2004/0029621 to Karaoguz *et al.* (hereinafter "Karaoguz"). Appellant respectfully requests that the Board reverse this rejection.

Claim 31 recites, in part, that "synchronization budget manager which limits time during which the wireless transceiver subsystem of the portable device is in the active state as a function of an amount of power which is allowed to be expended on content synchronization" (emphasis added). Appellant respectfully submits that Sheriff, Haartsen, Kouznetsov, and Karaoguz, alone or in combination, fail to disclose, teach, or suggest such elements.

On page 18 of the Final Office Action, the Examiner acknowledged that "Sheriff in view of Haartsen and in further view of Kouznetsov" does not teach such elements. Instead, the Examiner relied on paragraphs "0014, 0046 lines 14-15, 0052 lines 7-8, 0055 lines 4-13" of Karaoguz for its alleged disclosure of a "synchronization budget manager which limits time during which the wireless transceiver subsystem of the portable device is in the active state as a function of an amount of power which is allowed to be expended on content synchronization," as recited in Claim 31. Appellant respectfully disagrees with the Examiner's characterization of Karaoguz.

Paragraph [0014] of Karaoguz states:

> In a third mode of operation, selected application modules receive power. Transceiver elements, however, only receive power on a periodic basis. In one embodiment of the invention, the transceiver elements receive power in a fixed interval, for example, once every five minutes. When a transceiver device receives power in the periodic mode, it receives power as long as is necessary to down load any pending messages or data files.

Paragraph [0046], lines 8-16 of Karaoguz states:

> The transceiver elements 104 comprise any one of a plurality of wireless transceiver modules (or elements), including cellular voice and data networks, including TDMA, CDMA, GPRS, 1xEVDO and 1xEVDV, as well as 802.04, 802.11 and 802.15 standard-based protocol devices for wireless local area networks (WLANs), wireless personal access network (WPAN) devices, including Bluetooth and WLAN devices, infrared data association (IrDA) standards, and serial infrared communication data links.

Accordingly, these portions of Karaoguz disclose that "transceiver elements" may receive power on a periodic basis, and further disclose various "modules" or "elements" of "transceiver elements 104." However, these portions of Karaoguz fail to mention any type of "budget manager," as claimed.

Paragraph [0052], lines 4-8 of Karaoguz states:

> Thus, for example, IrDA power module 122 generates power level control commands 110 for controlling power provided to IrDA module 124. Similarly, WPAN power module 126 controls power delivery to WPAN module 128.

Paragraph [0055], lines 4-15 of Karaoguz states (with emphasis added):

> If mode 4 operation is selected, either by the user or if the hand held host operating according to FIG. 5 selects a low power mode because power resources have dropped below a specified threshold, only the one or more of the transceiver elements 104 receives power on a periodic basis, while all other application elements 106 do not receive power unless specifically selected. Accordingly, as may be seen in row 202, the WLAN/WPAN receives power periodically to enable it to search for and download messages, while the pager/SMS and cell phone are not powered on (unless specifically selected).

As such, Karaoguz further discloses a "power module 126 [that] controls power delivery to WPAN module 128." Karaoguz also discloses that "mode 4 operation" may be selected as a result of "power resources hav[ing] dropped below a specified threshold." "Mode 4 operation" causes "transceiver elements 104" to receive power on a periodic basis. However, Karaoguz does not appear to further define the "specified threshold" upon which "mode 4 operation" is dependent. Claim 31 recites that the "synchronization budget manager … limits time during which the wireless transceiver subsystem of the portable device is in the active state as a function of an amount of power which is **allowed to be expended on content synchronization**." Karaoguz mere disclosure of a selection of "mode 4 operation" upon "power resources hav[ing] dropped below a specified threshold," does not also disclose or render obvious "limit[ing] time … in the active state as a function of an amount of power which is **allowed to be expended on content synchronization**," as recited in Claim 31. Indeed, Karaoguz general disclosure of a "specified threshold" is not the same as an "amount of power

which is allowed to be expended on content synchronization." Karaoguz fails to provide any indication that the "specified threshold" is in any way related to "content synchronization" or to an "amount of power which is allowed to be expended" on a particular operation. Instead, the "specified threshold" appears to simply be a predetermined amount of power resources (e.g., battery level) of the device.

For at least the above reasons, Appellant respectfully requests reversal of the rejection of Claim 31 under 35 U.S.C. § 103(a).

D. The additional reference used to reject dependent Claims 31, 40, 42, 44, and 46-48 fail to cure the deficiencies of Sheriff, Haartsen, Kouznetsov, and Jonas.

On pages 18-21 of the Final Office Action, Claims 31, 40, 42, 44, and 46-48 were rejected under 35 U.S.C. § 103(a) over Sheriff, Haartsen, and Kouznetsov in view of various additional references. For example, Claim 31 was rejected over Sheriff, Haartsen, and Kouznetsov in view of U.S. Patent Application Publication No. 2004/0029621 to Karaoguz *et al.* (hereinafter "Karaoguz"). Claims 47 and 48 were rejected over Sheriff, Haartsen, and Kouznetsov in view of U.S. Patent No. 6,993,587 to Basani *et al.* (hereinafter "Basani"). Claims 40 and 44 were rejected over Sheriff, Haartsen, Kouznetsov, and Jonas in view of U.S. Patent No. 5,812,942 to Allen et al. (hereinafter "Allen"). Claims 42 and 46 were rejected over Sheriff, Haartsen, Kouznetsov, and Jonas in view of U.S. Patent Application Publication No. 2002/0066018 to Linnartz (hereinafter "Linnartz").

Claims 31, 40, 42, 44, and 46-48 depend variously from independent Claims 1, 37, and 43. As discussed above, the combination of Sheriff, Haartsen, and Kouznetsov fails to disclose, teach, or suggest at least one element recited in Claim 1, and the combination of Sheriff, Haartsen, Kouznetsov, and Jonas fails to disclose at least one element recited in

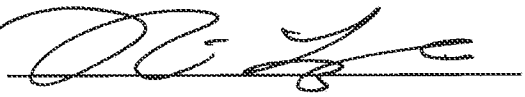
Claims 37 and 43. The Examiner does not indicate that Karaoguz, Basani, Allen, and Linnartz cure the deficiencies of Sheriff, Haartsen, Kouznetsov, and Jonas; and indeed they do not. Appellant therefore respectfully requests reversal of the rejection of Claims 31, 40, 42, 44, and 46-48 based at least on their various dependencies from independent Claims 1, 37, and 43.

CONCLUSION

In view of the foregoing discussion and arguments, Appellant respectfully submits that Claims 1, 2, 4, 6-10, and 31-48 are not properly rejected under 35 U.S.C. § 103(a). Accordingly, Appellant respectfully requests that the Board reverse all claim rejections and indicate that a Notice of Allowance respecting all pending claims should be issued.

Respectfully submitted,

Date: June 22, 2012

By: 

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CLAIMS APPENDIX

1. (Previously Presented) A system comprising:

a server computer having an associated wireless transmitter, wherein the server computer is programmed to:

receive, from a user interface, a predetermined future time selected by a user at which an automatic process of content synchronization is to be initiated; and

cause the wireless transmitter to transmit a signal to initiate the automatic process of content synchronization with a portable device at the predetermined future time, wherein the signal is caused to be transmitted by the server computer without regard to the portable device being within a range to receive the signal;

wherein the portable device comprises:

a wireless receiver subsystem comprising a wireless receiver and a first antenna associated with the wireless receiver; and

a wireless transceiver subsystem in communication with the wireless receiver subsystem, the wireless transceiver subsystem comprising a wireless transceiver and a second antenna associated with the wireless transceiver;

wherein the wireless receiver subsystem is configured to:

continuously and automatically cycle between a first power mode and a second power mode at least until the signal is received by the wireless receiver; and

respond to the signal when received by the wireless receiver to cause the wireless transceiver subsystem to transition from a standby state to an active state in which the wireless transceiver subsystem uses the wireless transceiver to actively perform

content synchronization with the server computer and wherein the wireless transceiver subsystem consumes less power in the standby state than in the active state.

2. (Original) The system of claim 1, wherein the wireless transmitter is physically coupled to the server computer.

3. (Canceled.)

4. (Previously Presented) The system of claim 1, wherein the server computer causes the wireless transmitter to transmit the signal periodically until the portable device responds to the signal.

5. (Canceled.)

6. (Original) The system of claim 1, wherein the wireless receiver includes a radio frequency (RF) receiver and the wireless transmitter includes a RF transmitter.

7. (Original) The system of claim 1, wherein the wireless receiver includes a pager network receiver.

8. (Original) The system of claim 1, wherein the wireless receiver includes a mobile cellular phone network receiver.

9. (Original) The system of claim 1, wherein the wireless transceiver includes a wireless local area network (WLAN) transceiver.

10. (Original) The system of claim 1, wherein the server computer includes a personal computer.

11. – 30. (Canceled.)

31. (Previously Presented) The system as recited in claim 1, wherein the portable device comprises a synchronization budget manager which limits time during which the wireless transceiver subsystem of the portable device is in the active state as a function of an amount of power which is allowed to be expended on content synchronization.

32. (Previously Presented) An apparatus comprising:

a wireless receiver subsystem comprising a wireless receiver and a first antenna associated with the wireless receiver; and

a wireless transceiver subsystem in communication with the wireless receiver subsystem, the wireless subsystem comprising a wireless transceiver and a second antenna associated with the wireless transceiver;

wherein the wireless receiver subsystem is configured to:

continuously and automatically cycle between a first power mode and a second power mode at least until a signal is received by the wireless receiver; and

respond to the signal received by the wireless receiver to cause the wireless transceiver subsystem to transition from a standby state to an active state during which the wireless transceiver subsystem uses the wireless transceiver to perform content synchronization with a server computer, and wherein the wireless transceiver subsystem consumes less power in the standby state than in the active state, wherein the synchronization of the content is performed at a predetermined time specified by a user in response to a command from the server computer.

33. (Previously Presented) The apparatus of claim 32, wherein the wireless receiver subsystem comprises a microprocessor, coupled to the wireless receiver, to periodically enable the wireless receiver.

34. (Previously Presented) The apparatus of claim 33, wherein the microprocessor consumes less power in the first power mode than in the second power mode, and the microprocessor enables the wireless receiver when the microprocessor is in the second power mode.

35. (Previously Presented) The apparatus of claim 33, wherein the wireless transceiver subsystem comprises a microprocessor to enable the wireless transceiver in response to the signal; and a power supply system, coupled to the microprocessor of the wireless transceiver subsystem, to provide power to the microprocessor of the wireless transceiver subsystem.

36. (Previously Presented) The apparatus of claim 35, wherein the microprocessor of the wireless receiver subsystem causes the power supply system to provide power to the microprocessor of the wireless transceiver subsystem in response to receipt of the signal.

37. (Previously Presented) A method comprising:

continuously and automatically cycling a wireless receiver subsystem of a portable device between a first power mode and a second power mode at least until a wireless signal is received by a wireless receiver of the wireless receiver subsystem;

receiving the wireless signal at a first antenna of the wireless receiver subsystem of the portable device;

using receipt of the wireless signal by the wireless receiver subsystem of the portable device to cause the wireless receiver subsystem of the portable device to transition a wireless transceiver subsystem of the portable device from a standby state to an active state wherein the wireless transceiver subsystem of the portable device consumes more power in the active state than in the standby state; and

causing the wireless transceiver subsystem of the portable device to use a wireless transceiver to synchronize content stored in the portable device with content in a server computer via a second antenna associated with the wireless transceiver in response to the wireless transceiver subsystem of the portable device being transitioned by the wireless receiver subsystem of the portable device to the active state, wherein the synchronization of the content is performed at a predetermined time specified by a user in response to a command from the server computer.

38. (Previously Presented) The method of claim 37, further comprising using the wireless receiver system of the portable device to enable a power supply system subsystem of the portable device to thereby cause the wireless transceiver subsystem of the portable device to transition from the standby state to the active state.

39. (Previously Presented) The method of claim 38, wherein the wireless receiver subsystem of the portable device is operable in the second power mode to enable the power supply system subsystem of the portable device in response to the wireless signal, and wherein the wireless receiver subsystem of the portable device consumes less power in the first power mode than in the second power mode.

40. (Previously Presented) The method of claim 37, wherein the wireless signal includes a radio frequency (RF) pulse.

41. (Previously Presented) The method of claim 37, wherein the wireless signal includes a pager message.

42. (Previously Presented) The method of claim 37, further comprising decoding an encrypted message carried by the wireless signal.

43. (Previously Presented) An apparatus comprising:

means for continuously and automatically cycling a wireless receiver subsystem of a portable device between a first power mode and a second power mode at least until a wireless signal is received by a wireless receiver of the wireless receiver subsystem;

means for receiving the wireless signal at a first antenna of the wireless receiver subsystem of the portable device;

means for transitioning a wireless transceiver subsystem of the portable device from a standby state to an active state wherein the wireless transceiver subsystem of the portable device consumes more power in the active state than in the standby state; and

means for synchronizing content stored in the portable device with content in a server computer via a second antenna associated with the wireless transceiver subsystem in response to the wireless transceiver subsystem of the portable device being transitioned by the wireless receiver subsystem of the portable device to the active state, wherein the synchronization of the content is performed at a predetermined time specified by a user in response to a command from the server computer.

44. (Previously Presented) The apparatus of claim 43, wherein the wireless signal includes a radio frequency (RF) pulse.

45. (Previously Presented) The apparatus of claim 43, wherein the wireless signal includes a pager message.

46. (Previously Presented) The apparatus of claim 43, further comprising decoding an encrypted message carried by the wireless signal.

47. (Previously Presented) The system of claim 1, wherein the server computer further comprises a user interface configured to receive and set a plurality of predetermined synchronization times.

48. (Previously Presented) The system of claim 47, wherein the server computer is further configured to receive and store a plurality of predetermined synchronization times from the user interface.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.